



POLICY DIRECTIVE ON THE LIMITATION ON THE NUMBER OF PROJECTS PER IMPLEMENTING AGENT AND LIMITATION ON THE NUMBER OF UNITS PER CONTRACTOR TO A MAXIMUM OF 500 UNITS EACH

a. Context

The Department is experiencing a number of challenges in meeting its delivery targets. These include:

- i. Limited number of experienced implementing agents in the sector;
- ii. Slow growth in the development of skills in the sector;
- iii. A large number of projects being stalled due to capacity challenges in the industry, resulting in agents being overstretched;
- iv. Poor performing service providers;
- v. Banking of projects by larger firms; and
- vi. Inability of service providers to close-out current projects whilst being awarded new projects.

A need was therefore identified to review underperforming projects and to identify mechanisms to assist implementing agents to deal with these projects more effectively, in the interest of service delivery.

b. Scope of Application

This policy will be an interim measure for the next 3 years. The intention of the policy is to ensure sustainable deliver, whilst providing for a developmental and consultative approach in addressing development challenges experienced with existing contracts and capacity constraints.

The limitation of projects per implementing agent in the context of existing contracts would require a transitional arrangement and multipronged approach. It should also take into consideration existing contracts and delivery challenges. Assessment will be made in consultation with stakeholders to identify challenges on non-performing and/or slow moving projects as a point of departure. Repackaging and unbundling of projects are possible approaches to assist struggling or overstretched agents and/or contractors to deal with projects more effectively in terms of their capacity.

The policy will work in parallel with other policies, including:

- The Department reclaiming its status of “Developer”, and negotiating service level agreements with municipalities relating to delivery within their areas, and on project specific basis, thus also revisiting the tripartite agreement and roles and responsibilities of implementing agents and municipalities on a case by case basis; and
- Redefining the roles and responsibilities of implementing agents and stakeholders on a project-by-project basis.

c. Approaches in terms of limitation

It is acknowledged that a one-size-fits-all approach is not suitable, hence different approaches are proposed for new and/or existing implementing agents with four (4) or less projects as at the date of approving this directive; existing implementing agents with more than 4 projects; and contractors whose main role is the construction of units, as follows:

i. New implementing agents and/or existing implementing agents with 4 or less projects

The number of new and current projects per implementing agent shall be restricted to no more than 4. This will apply to all new and potential projects, irrespective of the stage the projects are at (packaging, implementation or close-out). Current and past performance will be taken into account in the application of the restriction. In the case of new and/or relatively inexperienced implementing agents, the award on contracts will be done strictly on a proven performance base. Projects will, thus, be awarded progressively, pending performance, until the maximum of 4 is achieved.

ii. Existing implementing agents with more than 4 projects

Where it is evident that the implementing agent has not complied with the terms and conditions of the agreement, the standard provisions of breach or termination, whichever may be relevant will be applied.

The limitation on the number of projects will be applied to all projects where it is evident that the current implementing agent is not able to effectively manage projects. The following may be used as a guide:

- The number of slow moving and stalled/blocked projects, as per the National Strategy document will be used as a

guideline (especially where more than 30% of the projects are slow moving and/or stalled).

- More than 40% of the projects are practically complete but have not been formerly closed out.
- More than 3 requests per project for extensions of time.
- Cases where implementing agents have been placed in breach for not meeting targets at the end of each quarter.

iii. *Limitation on the number of units per contractor*

In order to contain risk and also to level the playing fields in terms of ensuring work is spread within the industry, the number of units pr contractor will be restricted to 500 each. This restriction, however, will take into consideration the Construction Industry Development Board (CIDB) grading of contractors. In this regard, the CIDB grading will relate to the maximum number of units as follows:

CIDB Grading	Maximum Value (R)	Equivalent number of subsidy units <i>(Guided by Top structure quantum of R55706)</i>
9	>130,000,000	>2333
8	130,000,000	2333
7	40,000,000	718
6	13,000,000	233
5	6,500,000	116
4	4,000,000	71
3	2,000,000	35
2	650,000	11
1	200,000	3

More units can be assigned once the contractor has successfully completed the maximum units assigned in terms of the contractor’s CIDB grading.

d. Implementation

The above restrictions will be implemented with immediate effect. Municipalities will, therefore be required to engage with the Department prior to confirming new appointments. This should be done through an interactive basis and take into account current and past performance and capacity to

deliver, whilst also noting project size, complexity, job creation and skills development (including emerging contractors, joint ventures, women and youth).

The number of new and active projects might be limited to no more than 4 in total; and/or through the unbundling of larger projects. Options should be negotiated as soon as the implementing agent's overall performance has been assessed, unless litigation is unavoidable. Where overall performance is hampering delivery, projects should be re-negotiated on a case by case basis, and a combination of options may be applied. Due consideration has to be given to all legal, financial and associated development implications.

The suggested approaches are:

- i. *Restriction of contracts through termination of contract/s and/or award of new contracts*

It is envisaged that this should be applied as a corrective measure, e.g. Where:

- more than 50% of the contracts are slow moving or stalled, it is suggested that no new contracts be awarded until at least 50% of the projects identified have progressed out of these categories; and/or
- requests for extension of time are required regularly over an 18 month period, the restriction will be applied until these are reduced to no more than 1 per project per year; and/or
- more than 50% of projects completed have not been formally closed out, the restriction will be applied until at least 60% of these have been done.

One or more projects may be terminated to reduce the number of projects to no more than 4 new and/or active projects, and/or projects in the prefeasibility stage.

Restrictions through termination and/or limitation on new contract award will be effected through written notification by the Head of Department. This will be done after consultation with the implementing agent and municipality, and submission of the facts through the unit responsible for managing projects.

The Department will keep a record of all such cases and appointments of any implementing agent will need to be vetted by the Department's Supply Chain Management component to confirm the status of restrictions.

Implementing agents will be required to apply in writing to the Head of Department for the restriction to be lifted.

ii. *Appointment of additional contractors/agents by the Department*

It is acknowledge that the planning and packaging of larger projects creates economies of scale. It is often cheaper to undertake the planning and design for larger areas, whilst phasing implementation, e.g. in the Integrated Residential Development Programme (IRDP). Where implementing agents are overstretched, however, this could result in large numbers of subsidies not being delivered. In such cases:

- Larger projects could be split into smaller projects (not exceeding 500 subsidies each), and awarding these to different contractors/implementing agents, through a tender process. This implies partial termination of an existing project; or
- Implementing agents could volunteer to sub-contract emerging contractors; and/or engage in an incubator programme. The latter bears specific reference to where implementing agents currently have more than 10 new and/or active projects and 2 in the prefeasibility stage, with an average of more than 750 subsidies.

In instances where work is sub-contracted inadequate payment of sub-contractors will not be tolerated by the Department. Sub-contractors must be paid the standard rates as regulated from time to time.